

REMARKS

Claims 1-50 are pending in this application, of which claims 1, 3-12, 14-20, 26, 29-31, 35, 37, 38 and 43 are amended. Claims 2 and 13 have been canceled. Claim 20 has been amended to correct a typographical error. Claims 3-12, 14-18, 20, 26, 29, 30, 35, and 38 have been amended to maintain proper antecedent basis. Based on the following remarks, it is respectfully submitted that the instant application is in condition for allowance. Prompt reconsideration and withdrawal of the rejections is respectfully requested.

Rejections under 35 U.S.C. § 102

On pages 2-11 of the Office Action, claims 1-16 and 19-49 are rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 7,089,420 (Durst). Independent claims 1, 19, 31, 37, and 43 have been amended. Applicant respectfully requests reconsideration of the claims in light of these amendments.

Independent claim 1 has been amended to incorporate the features of claim 2 and claim 13. Amended claim 1 recites, “A package including a mark for identification of the package, wherein the mark comprises a non-predetermined random identifier comprising at least one feature peculiar to and integral to the package itself.” This feature is neither taught nor suggested by Durst. Accordingly, it is respectfully submitted that Durst fails to anticipate claim 1.

The Office Action, in rejecting claim 2 on page 4, aligns the carton of Durst with the feature of “wherein the mark comprises a non-predetermined random identifier comprising at least one feature peculiar to...the package itself,” of amended claim 1. However, Durst only appears to disclose using a tape to seal the carton in order to prevent tampering and counterfeiting (Durst, col. 45, lines 21-22). Nowhere in Durst is it suggested that any of the features peculiar to the carton itself be used to create a non-predetermined random identifier. Instead, a special tape which may include non-predetermined random identifiers is applied to the carton in order to seal the carton (Durst, col. 45, 21-23). The tape is not a feature peculiar to the carton itself, as the tape is not part of the carton. The carton of Durst is merely the recipient of another item bearing a non-predetermined random identifier. Any features peculiar to the carton are irrelevant to the non-predetermined random identifier, and any mark

derived from it.

The Office Action, in rejecting claim 13 on page 6, suggests that FIGs. 6, 7A-B, 9, and, and col. 45, lines 11-63 of Durst disclose the feature of “wherein the mark comprises a non-predetermined random identifier comprising at least one feature peculiar to and integral to the package itself.” However, Durst neither discloses nor suggests this feature of amended claim 1.

FIG. 6 and col. 45, lines 11-20 disclose a certificate including a bar code, a hologram, a numeric representation of the bar code, a patch containing randomly distributed dichroic fibers, and a glyph. Of these features of FIG. 6, only the patch containing randomly distributed dichroic fibers is a non-predetermined random identifier, and the patch is neither peculiar to nor integral to the certificate. The dichroic fibers must be added to the certificate, randomly distributed on a defined patch on the surface of the certificate, after the manufacture of the certificate itself. The dichroic fibers are not required for the manufacture of the certificate. Further, the certificate is not a package. This is wholly different from the present claims, wherein the non-predetermined random identifier must comprise at least one feature peculiar to and integral to a package. In order to be integral to the package, the feature must be a necessary byproduct of the manufacture of the package, i.e., the package cannot be manufactured in such a way that it does not include the feature.

FIG. 7A-B and col. 45, lines 21-42 disclose a tape. As discussed above in reference to the rejection of claim 2, the tape is not a package, nor does it contain a non-predetermined random identifier comprising a feature that is peculiar to a package. In addition, the tape is not integral to the carton of Durst, as the tape is a separate item applied to the carton. Therefore the non-predetermined random pattern on the tape does not comprise a feature integral to the carton.

FIG. 9 and col. 45 lines 43-63 disclose a Compact Disc including a bar code, embedded defects, a dye pattern, and randomly distributed dichroic fibers. Only the randomly distributed dichroic fibers make a non-predetermined random identifier, and the dichroic fibers are neither peculiar to nor integral to the Compact Disc, as they must be added to the Compact Disc. Further, a Compact Disc is not a package.

Therefore, Durst neither teaches nor suggests “A package including a mark for identification of the package, wherein the mark comprises a non-predetermined random identifier comprising at least one feature peculiar to and integral to the package itself.

Accordingly, it is respectfully submitted that claim 1 is patentably distinct over Durst. Withdrawal of the rejection of claim 1 and allowance thereof is respectfully requested.

Claims 3-12 and 14-16 are allowable over Durst for at least being dependent on allowable claim 1.

Independent claims 19, 31, 37, and 43 have been amended to claim 1. Thus, for at least the same reasons as claim 1, it is respectfully submitted that independent claims 19, 31, 37 and 43 are allowable over Durst. Withdrawal of the rejection of claims 19, 31, 37 and 43 and allowance thereof is respectfully requested.

Claims 20-30 are allowable over Durst for at least being dependent on allowable claim 19.

Claims 32-36 are allowable over Durst for at least being dependent on allowable claim 31.

Claims 38-42 are allowable over Durst for at least being dependent on allowable claim 37.

Claims 44-50 are allowable over Durst for at least being dependent on allowable claim 43.

Rejections under 35 U.S.C. § 103

On page 11 of the Office Action, claim 50 is rejected under 35 U.S.C. § 103(a) as being obvious in view of Durst. Claim 50 depends from claim 43, which is allowable over Durst for reasons stated above. Claim 50 is therefore non-obvious in view of Durst, and is therefore allowable over Durst.

On page 12 of the Office Action, claim 17 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Durst in view of U.S. Patent No. 6,155,025 (Komiya). This rejection is traversed in light of the amendments to independent claims 1. Claim 17 depends from

claim 1, which is allowable over Durst for reasons stated above. Komiya does not remedy the deficiencies of Durst with respect to claim 1. Komiya does not teach or suggest “wherein the mark comprises a non-predetermined random identifier comprising at least one feature peculiar to and integral to the package itself.” Claim 17 is therefore allowable over Durst in view of Komiya for at least being dependent on allowable claim 1.

One page 13 of the Office Action, claim 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Durst in view Derwent Publication DE 20101554 U1 (Graphia). Claim 18 depends from claim 1, which is allowable over Durst for reasons stated above. Graphia does not remedy the deficiencies of Graphia with respect to claim 1. Graphia does not teach or suggest “wherein the mark comprises a non-predetermined random identifier comprising at least one feature peculiar to and integral to the package itself.” Claim 18 is therefore allowable over Durst in view of Graphia for at least being dependent on allowable claim 1.

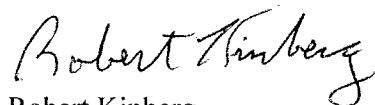
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Respectfully submitted,

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